

RESOLUTION NO. 21-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILL VALLEY EXPRESSING OPPOSITION TO CALIFORNIA STATE HOUSING LEGISLATION THAT FUTHER ERODES LOCAL CITY CONTROL

THE CITY COUNCIL OF THE CITY OF MILL VALLEY HEREBY FINDS AND RESOLVES AS FOLLOWS:

SECTION 1. Mill Valley objects to the State of California continuing to pass legislation that undermines our local control over housing matters. This resolution discusses the City of Mill Valley's strong support for more affordable housing, how state mandates interfere with our efforts to develop affordable housing, how developer friendly state mandates on market rate housing increase evacuation risk and do nothing to encourage diversity, and next steps the City is considering.

We strongly support a pause in all housing legislation except for state bills that provide funds for below market rate housing development. Newly constructed market rate units are expensive, and do not materially impact the cost of existing homes. Our town is small, built out and desirable. State mandates on market rate housing do nothing to encourage affordable housing and the diversity of housing costs our city supports.

The City Council declares that, should the State continue to pass legislation that undermines local municipal authority, control, and revenue, the City of Mill Valley will support actions, such as a ballot measure, that would limit the State's ability to control local activities and strengthen local democracy and authority.

SECTION 2. The legislature of the State of California each year proposes, passes, and has signed into law several bills addressing a range of housing issues. The legislature of the State of California does not allow sufficient time between each legislative cycle to adequately assess the outcome of the legislation and to collaborate with local municipalities on proposed regulations.

SECTION 3. The State legislature continues to indicate that the various pieces of housing legislation (proposed and passed) are not technically "unfunded mandates", however with every new state regulation passed, local jurisdictions must spend staff time and financial resources to hire attorneys and consultants to comply with new state regulations.

SECTION 4. Most of these bills usurp the authority of local jurisdictions by imposing mandates that do not consider the local context of jurisdictions, including but not limited to topography; General Plan goals and implementing programs for the community related to mobility, community vitality, natural environment, climate action, hazards and public safety, noise and land use; and limited municipal resources and infrastructure (e.g. roads, water, sewer).

SECTION 5. Local jurisdictions should continue to determine which projects require review beyond a ministerial approval and maintain control over its land use policies based on the

guidance contained in the City's General Plan, which provides an overall vision for the community and balances important community needs (e.g. housing quantity and diversity of type and cost, natural environment, climate/sustainability, noise, hazards and public safety, mobility and community vitality).

SECTION 6. The City Council of the City of Mill Valley feels strongly that our local government is best able to assess the needs of our community and we oppose State legislation that deprives us of that ability. At the same time, the City of Mill Valley strongly and demonstrably supports local affordable housing policies (section 7). Our locally determined solutions are being thwarted by the "one size fits all" legislation promulgated by the state (section 8).

SECTION 7. We support affordable housing. The City of Mill Valley is committed to expanding its supply of affordable housing. We stand by our record.

The City continues to be a leader in the production of ADUs despite the fact that the specific restrictions we sought to ensure that new units were rented at a below-market rate were thwarted due to a state "one size fits all" mandate (section 8).

Mill Valley is one of only two cities in Marin County to satisfy the Regional Housing Needs Allocation (RHNA) in the current eight -year cycle.

Mill Valley updated its multifamily design review guidelines in 2016 to bring more certainty to the entitlement review process and require that all developments over four units have a 25% low-income component.

Mill Valley was one of the first cities in Marin County to form a Housing Advisory Committee in 2017, specifically focused on creating affordable units.

We were one of the first Marin cities to create an affordable housing fund, formed in 2018, to provide the capital needed to further increase the supply of low-income housing.

We are one of the first Marin cities to create and implement a home match program, in 2019, to coordinate low-cost housing for renters.

After receiving over 550 comment letters and petitions both for and against the proposal, and after many hours of vigorous testimony on both sides of the question, Mill Valley City Council also recently unanimously approved issuing a Request for Qualifications to investigate a specific identified public land site for a below market rate housing project in the range of 40 units.

SECTION 8. State mandates interfere with our local housing efforts. Here is just one example of how the "one size fits all" state efforts are at odds with what Mill Valley is trying to do to promote and create affordable housing for very low, low- and moderate-income households and the City's workforce. The City of Mill Valley has allowed homeowners a 500 square foot floor area exemption since the 1980's as a means of encouraging small-scale accessory dwelling units within existing single-family neighborhoods and lots. The program originally was affordable by

design, given the size of ADU allowance and market conditions. With increasing housing prices and through the Housing Element Update process, the Mill Valley community identified further encouragement and use of non-market rate ADUs as a Housing program priority. After significant research and discussion with the community, the City drafted a revised ordinance in September of 2019 linking the ADU floor area incentive to the restricted use of ADUs, by way of a deed restriction for the sole purpose of housing moderate- and low-income households, adult family members, seniors, or members of the Mill Valley workforce. The City studied the economics of building costs, and financing and determined that the approach was viable and the Draft Ordinance was supported by the local community.

Governor Newsom then signed five legislative bills into law (AB 881, AB 68, SB13, AB 587, AB 670) that became effective January 1, 2020. These regulations allow the majority of ADU's by right, granting a sizable amount of square footage of up to 800 square feet which is bigger than a typical 1-bedroom apartment. Critically, these ADUs do not include any rental price restrictions or restrictions of use. Because of the new state regulations, our process totally stopped to comply with the state rules.

As a result of the State's "one size fits all" ADU rules, the City has lost its local control to require the use of ADUs for the much-needed purpose of affordable housing. Its local floor area ADU incentive for restricted specific use smaller-scale and affordable 500 square foot ADUs has been replaced by a market rate 800 square foot ADU state mandate.

SECTION 9. Developer friendly State mandates on market rate housing increase evacuation risk and do nothing to encourage diversity of housing costs. The State of California is mandating 830 new homes as part of the next Housing Element and Regional Housing Needs Allocation (RHNA) process to Mill Valley and fails to recognize local conditions. This is a staggering 640 % of the 129 units in the current cycle. Failure to meet our large RHNA goal will allow developers to use State mandated streamlining, further eroding local control. The state legislature and regional housing distribution and allocation process needs to acknowledge and account for local factors that are important to consider when looking at housing opportunities in the State of California, including:

- **Vacant land.** The City of Mill Valley is 97% built out. The average slope of the remaining vacant parcels (3% of the City's parcels) is 41%. And, almost half of all vacant land is undersized (less than 6,000 square feet).
- **Fire Zones and Evacuation risk.** Of the 6,539 parcels in Mill Valley, approximately 60% (3,865) are located in the Wildland Urban Interface and 33% (2,183) are located in the State's Very High Fire Hazard Severity Zone, which also correlates with severely sloped areas that are served with limited roadway width and access. In Mill Valley, over 35% of the City's roadway/pavement are less than 16 feet wide providing limited access. In addition, there are only two roadways that provide access into and out of town, both of which narrow to a one-lane configuration before exiting the City onto the highway. The City of Mill Valley is deeply concerned about state actions to add market rate density units to our town,

such as proposed lot splits and the like, adds more lives that are put at risk during a fire evacuation. We are particularly alarmed with the possibility of drought further increasing the risk of conflagration in our town.

- **Flood Zones.** There are 23% of parcels located in the FEMA Floodplain, of which 5% are designated in the FEMA Floodway Zone making it extremely difficult to modify existing footprints.
- **Parcel Size.** In terms of those parcels located in the flatland areas that are appropriately zoned for Multi-Family and Mixed-Use development, 87% of the parcels are less than a ½ acre limiting the economic ability to build larger multifamily units.
- **Sustaining existing affordable units.** Worse, of the 6200 units of housing in town, over 2,000 are apartments, mostly built many years ago and by their nature, more affordable. Another of our policies regarding promoting diversity of housing stock is a 25% low- and moderate-income infill requirement if new development occurs. Providing streamlining provisions friendly to developers is another example of how state laws are hurting our local efforts. If an older 12-unit apartment building is torn down and replaced by nine expensive market rate ownership condominiums and three lower cost infill units, all encouraged by streamlining, the city loses nine net affordable units.
- **Balanced land use and community priorities.** The State of California mandates the use of a General Plan in order to provide an overall vision to plan out local communities. The State legislature should continue to utilize General Plan as a means of introducing new policies that allow municipalities more freedom and choice in working with the community and considering local context to implement new state policies.

Failure to meet our totally unrealistic RHNA goal will cynically allow developers to demand State mandated streamlining, further eroding local control and the City's ability to balance housing with other important needs of the community, including safety. Newly constructed market rate units are expensive, and do not materially impact the cost of existing homes. Our town is small, built out and desirable. State mandates on market rate housing increase evacuation risk and do nothing to encourage diversity of housing costs. The state provides limited funding to support low-income housing. With the exception of low-income units, we do not support any more developer friendly market rate density incentives in our high fire risk town. Existing zoning ordinances and guidelines reflect our topography and evacuation risk.

SECTION 10. Next steps. The City of Mill Valley is opposed to the current practice of the legislature of the State of California of continually proposing and passing a multitude of bills that directly impact and interfere local control over its land use. Mill Valley establishes and revises its land use and zoning maps based on needs and interests of the community through the General Plan Update process. The General Plan Update process allows community input and balancing

the needs of the community including safety, natural environment, housing, noise, and community vitality. We strongly support a pause in all legislation except for state bills that provide funds for below market rate housing development.

SECTION 11. Therefore, the City of Mill Valley will explore various ways to protect the ability for cities to retain local control over zoning as each individual city within the State of California is best suited to determine how the zoning in their city should be allocated to meet the housing needs of the community. The City Council declares that, should the State continue to pass legislation that undermines local municipal authority, control, and revenue, the City of Mill Valley will support actions, such as a ballot measure, that would limit the State's ability to control local activities and strengthen local democracy and authority.

SECTION 12. The City of Mill Valley is aware that a grassroots organization, California Cities for Local Control (CCLC) was founded in July 2020 as an advocacy group for local control over zoning and land use decisions. The organization is supported by elected officials, homeowner group representatives, city planners, and homeowners, all sharing the common belief that Local Governments should remain the ultimate decision makers for how their communities are built. Over 70 cities have passed resolutions and have shared them with CCLC.

SECTION 13. The City of Mill Valley will share this Resolution with CCLC, allowing it to be posted on the CCLC website. Mill Valley is not formally joining CCLC because the entity is in its formation stage and has no formal policies for Mill Valley to assess currently.

SECTION 14. The City Clerk shall certify to the adoption of this resolution and shall cause this resolution and her certification to be entered in the Book of Resolution of the Council of this City.

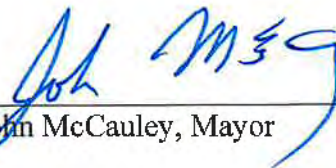
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Mill Valley on the 8th day of **July, 2021**, by the following vote:

AYES: Councilmembers: McEntee, Ossa, Carmel, Wickham, McCauley

NOES: None.

ABSENT: None.

ABSTAIN: None.



John McCauley, Mayor

ATTEST:



Kelsey Rogers, City Clerk/Administrative Analyst